



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[DOCKET #: RUS-22-ELECTRIC-0055]

Notice of Availability of a Record of Decision for Badger State Solar, LLC, Project

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of a Record of Decision.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), an agency within the Department of Agriculture (USDA), has issued a Record of Decision (ROD) to meet its responsibilities in accordance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA, RUS Environmental Policies and Procedure, and other applicable environmental requirements related to providing financial assistance for Badger State Solar's, LLC proposed Alternating Current solar project (Project) in Wisconsin. The Administrator of RUS has signed the ROD, which was effective upon signing. This ROD concludes RUS environmental review process in accordance with NEPA and RUS, Environmental Policies and Procedures. The ultimate decision as to loan approval depends on the conclusion of the environmental review process plus financial and engineering analyses. Issuance of the ROD will allow these reviews to proceed. The ROD is not a decision on the Badger State Solar's loan application and is not an approval of the expenditure of federal funds.

DATES: The Administrator of the Rural Utilities Service signed the Record of Decision on December 22, 2022.

ADDRESSES: To request copies of the ROD, contact Peter Steinour at BadgerStateSolarEIS@usda.gov. The ROD is also available at RUS website at <https://www.rd.usda.gov/resources/environmental-studies/impact-statements>

FOR FURTHER INFORMATION CONTACT: For further information, contact Peter Steinour, Environmental Protection Specialist, USDA, Rural Utilities Service, 1400 Independence Ave., S.W., Mail Stop 1570, Washington, DC 20250, by phone at 202-961-6140, or email at BadgerStateSolarEIS@usda.gov.

SUPPLEMENTARY INFORMATION:

1. Purpose and Need: Badger State Solar has indicated that it intends to request Federal financing from the USDA RUS for development of the Project. While RUS is authorized under the Rural Electrification Act of 1936 (REA) to finance electric generation infrastructure in rural areas, it is the Midcontinent Independent System Operator, Inc. (MISO), not RUS, who is responsible for electric grid planning. Supporting renewable energy projects meets both RUS's goal to support infrastructure development in rural communities and USDA's support of the June 2013 Climate Action Plan, which encourages voluntary actions to increase energy independence.

2. Project Description: Badger State Solar proposes to construct, install, operate, and maintain a 149-megawatt (MW) photovoltaic (PV) Alternating Current solar energy generating facility on a site in the Townships of Jefferson and Oakland, in Jefferson County, Wisconsin. The total estimated Project cost would be approximately \$225,000,000. Project construction is anticipated to begin in November 2022. Construction would be complete, and the Project would be expected to come online by Fall 2023.

The Jefferson County site initially included three proposed development areas: The Primary Solar Array Area, Alternate Solar Array Area, and Optional Solar Array Area. As the solar facility design progressed, Badger State Solar determined that the approximately 1,200-acre

Primary Area would be suitable to host the proposed 149 MW solar power facility without requiring development of the Alternate and Optional Areas. The Primary Area became the Proposed Action which is the focus of this Environmental Impact Statement (EIS). The Proposed Action would take place on approximately 1,200 acres located on the north and south sides of US Highway 18 (US 18), approximately 2 miles west of the City of Jefferson and west of State Highway 89. Site land cover is predominantly agricultural crops and pasture, with some forest and wetland.

Construction involves the installation on leased lands of 487,848 single-axis tracking PV panels. The PV panels would be mounted on a steel racking frame. Supporting facilities include an electrical substation. The lease agreement allows for an operating period of 40 years. A power purchase agreement has been executed with Dairyland Power Cooperative for the entire output of the Proposed Action. The Project site is near the point of interconnection to the grid at the American Transmission Company (ATC) Jefferson substation near the intersection of State Trunk Highway 89 and US 18.

Construction equipment would include graders, bulldozers, excavators, forklifts, trailers, plows, trenchers, pile drivers, and directional boring rigs. Vehicles for transporting construction materials and components primarily would be legal load over-the road flatbed and box trucks. Transport would use existing regional roads, bridges, and intersections. Laydown areas would be established within the Project site. Internal site access roads would be required. Fencing would be placed around contiguous blocks of solar arrays.

Potential locations for development of the solar facility in Wisconsin were evaluated in an initial preliminary site review to identify locations where electric transmission infrastructure would be sufficient to connect a solar project to the power grid. The Site Selection Study consisted of three phases of evaluation which began with 18 potential sites and ended with the identification of the Project site in Jefferson County as the most feasible for consideration. The potential impacts of

the No Action Alternative and the Proposed Action, construction of the Badger State Solar project in Jefferson County, Wisconsin, are analyzed in chapter 3 of the Final EIS.

In the EIS, the effects of the proposal are compared to the existing conditions in the affected area of the proposal. Public health and safety, environmental impacts, socio-economic, and engineering aspects of the proposal are also considered in the Final EIS.

The proposed Project is subject to the jurisdiction of the Public Service Commission of Wisconsin (PSCW), Wisconsin Department of Natural Resources (WDNR), Wisconsin Historical Society-Historic Preservation Office (SHPO), Wisconsin Department of Transportation (WisDOT), and the State of Wisconsin Division of Safety and Buildings. Badger State Solar has submitted applications to the PSCW for a Certificate of Public Convenience and Necessity; and either has or will submit applications for permits to the WDNR for an Isolated Wetlands Permit and Wisconsin Pollution Discharge Elimination System/Stormwater Runoff Permit (NR216); WisDOT for a utility permit, driveway/access permit, and oversize/overweight permit; and the State of Wisconsin Division of Safety and Buildings for a Building permit. Badger State Solar may also submit applications for permits as needed to Jefferson County Highway Department (oversize-overweight, utility, county highway entrance), Jefferson County Land Conservation Department (stormwater management), Jefferson County (construction permit, utilities, sanitary permits), Jefferson County Farm District Drainage No. 16 (drainage alteration permit), City of Jefferson (driveway, sign, and building permits) and Town of Oakland (driveway permits). These state and local agency permits would authorize Badger State Solar to construct the proposed project under Wisconsin rules and regulations.

While RUS is authorized under the REA to make loans to finance electric generation infrastructure in rural areas, it is the MISO, not RUS, who is responsible for electric grid planning. Supporting renewable energy projects meets both RUS's goal to support infrastructure development in rural communities and USDA's support of the June 2013 Climate Action Plan.

Along with other technical and financial considerations, completing the environmental review process is one of RUS's requirements in processing Badger State Solar's application. RUS is the lead Federal agency for environmental review of the proposed project.

RUS prepared a Final EIS and published a notice of availability in the Federal Register on August 26, 2022 (87 FR 52502), to analyze the impacts of its respective Federal actions and the proposed Project in accordance with NEPA, the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500 through 1508), and RUS Environmental Policies and Procedures (7 CFR part 1970). Two comments were received on the Final EIS; one from the Environmental Protection Agency which indicated that their previous comments on the Draft EIS had been addressed in the Final EIS and one from the United States Army Corps of Engineers offering no comment on the Final EIS. No additional revisions to the Final EIS were necessary upon receipt of these comments.

RUS determined that its action regarding the proposed Project is an undertaking subject to review under Section 106 of the National Historic Preservation Act and its implementing regulation, "Protection of Historic Properties" (36 CFR part 800) and as part of its broad environmental review process, RUS must take into account the effect of the proposed project on historic properties.

Of the identified archaeological resources within the Area of Potential Effect, none are recommended as eligible for the National Register of Historic Places. However, as a result of the archaeological and architecture/history investigations conducted for the Proposed Action, two of the resources within the Area of Potential Effects were recommended for avoidance or further investigations: a historic cemetery and the William Eustis House. Project activities would avoid the historic cemetery boundaries by a minimum of 10 feet. With regard to the NRHP-eligible William Eustis House, a No Adverse Effect finding was recommended based on the following factors: lack of any potential for physical destruction, damage or alterations to the property; an

absence of proposed activities which could alter the architectural character of the Eustis House; and presence of intervening visual intrusions (dense vegetation, trees and barns) between the house and the proposed solar arrays. There would be no adverse effect to NRHP-eligible historical structures. Based on these results, a finding of No Adverse Effect in accordance with 36 CFR 800.5(b) is appropriate for the Proposed Action. RUS submitted this finding in a letter to the Federally recognized tribes and the SHPO in November 2021 and January 2022, respectively. On January 27, 2022, the SHPO concurred the Proposed Action would have no adverse effects to historic properties.

The proposed overhead transmission crossing of US 18 was added to the Proposed Action in February 2022. RUS recommended the finding of No Adverse Effect was still appropriate for the Proposed Action. RUS submitted this finding in a letter to the Federally recognized tribes and the SHPO in March 2022. These letters are on file at RUS. On March 30, 2022, the SHPO concurred the Proposed Action would have no adverse effects to historic properties.

RUS consulted with the following Federally recognized Native American tribes:

- Citizen Potawatomi Nation, Oklahoma
- Forest County Potawatomi Community of Wisconsin
- Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Ho-Chunk Nation of Wisconsin
- Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
- Menominee Indian Tribe of Wisconsin
- Miami Tribe of Oklahoma
- Osage Nation
- Prairie Band Potawatomi Nation
- Winnebago Tribe of Nebraska

The Ho-Chunk Nation of Wisconsin, Menominee Tribe of Wisconsin, Miami Tribe of Oklahoma, Osage Nation, and the Winnebago Tribe of Nebraska did not provide objections to the project; however, they requested to be notified of any inadvertent discoveries. A Post-Review Discovery Plan was prepared and in the event of an inadvertent discovery, these Tribes will be contacted. The other Indian tribes consulted did not provide comments.

Based on consideration of the environmental impacts of the proposed Project and comments received throughout the agency and public review process, RUS has determined that Proposed Action Alternative as described above best meets the purpose and need for the proposed Project. RUS finds that the evaluation of reasonable alternatives is consistent with NEPA and RUS Environmental Policies and Procedures. Details regarding RUS regulatory decision and compliance with applicable regulations are included in the ROD.

Andrew Berke,

Administrator,

Rural Utilities Service,

U.S. Department of Agriculture.